

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

EDWARD L. MESICK and)	
ADRIENNE L. MESICK,)	
on behalf of themselves and a class,)	
)	
Plaintiffs,)	08 CV 2695
)	Judge Amy J. St. Eve
vs.)	Magistrate Judge Arlander Keys
)	
FREEDMAN, ANSELMO, LINDBERG)	
& RAPPE LLC,)	
)	
Defendant.)	

PARTIES' INITIAL STATUS REPORT

The parties, having spoken and conferred on June 13, 2008, with Cassandra P. Miller (counsel for Plaintiffs) and Justin M. Penn (counsel for Defendant) participating in accordance with Fed.R.Civ.P. 26(f), hereby present the following initial status report.

I. The Nature of the Case

A. The Attorneys of Record

For Plaintiff:

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For Defendant:

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B. Basis for Federal Jurisdiction

This Court has subject matter jurisdiction under 28 U.S.C. §1331 (general federal question) and 15 U.S.C. §1692 *et seq.* (Fair Debt Collection Practices Act, “FDCPA”).

C. The Nature of the Claims Asserted

Defendant law firm filed a foreclosure suit against the Plaintiffs. Defendants filed an “affidavit of attorney’s fees and costs” in the foreclosure suit. The affidavit identifies \$405 for “Cost of Service.” Defendant paid \$405 to Provest to effectuate service on the Plaintiffs in the foreclosure law suit. Plaintiffs contend that the number inserted in the affidavit for “Cost of Service” misstates the actual costs associated with service. Plaintiffs assert that the \$405 Defendant paid to Provest represents the costs of service as well as other costs or expenses not properly identified as “Costs of Service.” Plaintiffs allege that the description and attempt to collect these fees as court costs violated 15 U.S.C. §§1692e, 1692e(2), 1692e(5), 1692e(10), 1692f, and 1692f(1).

D. The Major Legal and Factual Issues of the Case

The following are legal issues involved in this case:

1. Whether the affidavits listing the Cost of Services which defendant attaches to its state court complaints are correct;
2. Whether there are misrepresentations in violation of the FDCPA;
3. Whether this case is appropriate for class certification;

4. Whether Defendant's bona fide error defense shields it from liability under the FDCPA.

The following is a list of the factual issues involved in this case:

1. Whether the \$405 fee listed in the affidavit was owed toward "Cost of Services";
2. Whether defendant engaged in a practice of attaching affidavits listing incorrect amounts owed for "Cost of Services";
3. What steps or procedures defendants implemented to avoid violations of the FDCPA;
4. The number and identity of class members;
5. How the Plaintiffs and putative class members were served with the foreclosure lawsuits and who served them;
6. Whether there are differences (amount billed/amount paid/geographic location/etc.) between and among the Plaintiffs and putative class members.

E. The Relief Sought

Plaintiffs are seeking, for themselves and a putative class of similarly situated persons, appropriate damages under 15 U.S.C. § 1692k, as well as attorney's fees, litigation expenses, costs of suit and any other relief that the Court finds proper. Plaintiffs may seek actual damages or other proper relief on behalf of the class, depending on what the evidence shows.

II. Discovery Plan

A. Pending Motions

There are currently no pending motions before the Court.

B. Discovery

Written and oral discovery will be necessary on the legal and factual issues identified above. The parties have agreed on the following proposed schedule and request that the Court approve of the same, as follows:

1. Initial disclosures pursuant to Fed.R.Civ.P. 26(a)(1) shall be exchanged by July 25, 2008.
2. Amendments to pleadings, and the joinder of additional parties, may be sought by an appropriate motion filed on or before October 24, 2008.
3. Fact discovery shall close on February 25, 2009.
4. Plaintiffs shall disclose their trial expert, pursuant to Fed.R.Civ.P. 26(a)(2), on or before March 25, 2009.
5. Defendant shall disclose its trial expert, pursuant to Fed.R.Civ.P. 26(a)(2), on or before April 27, 2009.
6. Dispositive motions shall be filed on or before May 13, 2009.

C. Pre-Trial and Trial

Given the likelihood of resolution of this case, in part or in whole, through summary judgment motions, the parties propose that the Court set a trial date and a deadline for the pre-trial order and related papers following the disposition of the parties' summary judgment motions. A trial by jury could be completed in 3-4 days.

III. JURISDICTION OF MAGISTRATE

At this time, the parties do not unanimously consent to the jurisdiction of the magistrate judge.

IV. SETTLEMENT DISCUSSIONS

There have been no substantive discussions of settlement of this matter. Upon receipt of information regarding the Defendant's net worth and the class size, Plaintiffs are prepared to discuss settlement.

Respectfully submitted,

s/Cassandra P. Miller

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CERTIFICATE OF SERVICE

I, Cassandra P. Miller, hereby certify that on June 20, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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s/ Cassandra P. Miller

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